

Original Copy

(Rev. 5/05)

**FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

(1) Jeffrey M. RAINIEFSK, #460832
(Name of Plaintiff) (Inmate Number)

JTVCC

1181 Packdeck Rd Smyrna DE 19977
(Complete Address with zip code)

(2) _____
(Name of Plaintiff) (Inmate Number)

(Complete Address with zip code)

(Each named party must be listed, and all names
must be printed or typed. Use additional sheets if needed)

vs.

(1) Officer Kenny Smith

(2) Officer Townsend

(3) LT. Joseph Johnson
(Names of Defendants)

(Each named party must be listed, and all names
must be printed or typed. Use additional sheets if needed)

FILED
AUG - 6 2008
U.S. DISTRICT COURT
8

CIVIL COMPLAINT

Jury Trial Requested

I. PREVIOUS LAWSUITS

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

N/A

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

A. Is there a prisoner grievance procedure available at your present institution? Yes No

B. Have you fully exhausted your available administrative remedies regarding each of your present claims? Yes No

C. If your answer to "B" is Yes:

1. What steps did you take? I Wrote Grievance, Wrote Appeals for Class Action, And Filed for Disciplinary report
2. What was the result? Appeals were Denied, Grievance was Non-Grievable, Internal Affairs Did An Investigation outcome unknown.

D. If your answer to "B" is No, explain why not: N/A

III. DEFENDANTS (in order listed on the caption)

(1) Name of first defendant: Officer Benoy Smith
 Employed as Correctional Officer at Sussex Correctional Institution
 Mailing address with zip code: P.O. Box 500 Georgetown, DE 19947

(2) Name of second defendant: Officer Townsend
 Employed as Correctional Officer at Sussex Correctional Institution
 Mailing address with zip code: P.O. Box 500 Georgetown, DE 19947

(3) Name of third defendant: LT Joseph Johnson
 Employed as LT. Correctional Officer at Sussex Correctional Institution
 Mailing address with zip code: P.O. Box 500 Georgetown, DE 19947

(List any additional defendants, their employment, and addresses with zip codes, on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets of paper if necessary.)

1. This is a Complaint for injunctive relief and damages brought under 42 U.S.C. § 1983, in connection with the Unprovoked Attack on Plaintiff Jeffrey H. Rainier (SR), in March of 2007, A prisoner At STVCC, by Defendants, Officer Kenny Smith, Officer Townsend, LT Joseph Johnson, Wesley Phelps. The Attack and placement in isolation (situ), and by not allowing him to call witnesses. During his Disciplinary hearing, was a violation of his Constitutional Rights Under the Eighth Amendment prohibition. Cruel and Unusual punishment And the Due process clause of the Fourteenth Amendment.
2. On March 2007 Approximately 8:30pm Officers Kenny Smith and another Correctional Officer John Doe I (NAME UNKNOWN) Verbally reprimanded me for Talking During medication call. John Doe I Stated that he would choke me all the way to medical call by himself if I had a problem. I stated that I didn't
3. On March 2007 Approximately 8:30pm Officers Kenny Smith and another Correctional Officer John Doe I (NAME UNKNOWN) Verbally reprimanded me for Talking During medication call. John Doe I Stated that he would choke me all the way to medical call by himself if I had a problem. I stated that I didn't

V. RELIEF

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. To grant me Judgment of \$600,000.00 for emotional, psychological, and physical Damages And Also \$1000.00 for every Day spent in Confinement in the Hole And the (SHU) Since March 2007. To Have officers Terminated. To Cover All Court Costs and Attorneys Fees plus.

2. To Be Removed from the (SHU) And housed in proper classification of Minimum status.

3. _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25 day of July, 2008.

Jeffrey M. Roemer Jr.
(Signature of Plaintiff 1)

(Signature of Plaintiff 2)

(Signature of Plaintiff 3)



Christine S. Kemp
Notary, July 30, 2007
DATE

List and Address of Defendants

4) Warden Phelps

Employed As: Warden at James T. Vaughn Correctional Center
Mailing Address: JTVC 1151 Padgett Rd Smyrna, DE 19977

Hailing Address: STVCC 1181 Padchart Rd Smyrna, DE 19977

All Defendants are Named in their official Capacities as Well As their individual Capacities.

Continued

Statement of Claim

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have a problem and proceeded to get my medication and returned to my housing unit. Approximately at 10:20 pm, this same night, Officer Kenny Smith came onto my housing unit and to my cell, it was Code Red Lock Down during this time. Officer Kenny Smith had Officer Townsend open my cell door from his control panel. Officer Townsend was the officer assigned to housing unit 3 at the time. I was instructed by Officer Kenny Smith to get my Doc V Neck shirt on and ID card, and to step out of my cell. Once standing outside of my cell Officer Kenny Smith began to reprimand me again for talking in the hallway during medication call. He stated that he did not know what my discipline record consisted of, but now is your time to talk so he could decide what to do as far as a disciplinary report. I stated that I did not have any disciplinary reports at all and that it didn't matter to me one way or another what he did that I just wanted to return to my cell to go back to sleep. Officer Kenny Smith then grabbed me by my shoulders and slammed me against the wall repeatedly hitting my head 5 to 6 times stating that "You don't Give a F---k, is that what you say's, You don't give a F---k." Officer Townsend looked down the tier at him and acted with deliberate indifference by not stopping Officer Kenny Smith and allowing him to attack me. Officer Kenny Smith finally let go of me and he removed his capstone and gave it several shakes while I stood there watching him. I asked him "What are you going to mase me now too?" He then sprayed me in the face with the capstone and hit me in the face knocking

Continued . . .

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my eyeglasses to the floor. At this point I proceeded to clefted my self, I was struck in the face several times before I could get away to a safe distance from him. Officer Townsend approached me at this point and told me to get on the ground and allow him to handcuff me, I did as instructed. At this time Officer Townsend sprayed me with mace again. Little face down on the ground, Officer Kenny Smith kicked or punched my head into the steel ceiling. Officer Townsend kept him off me and told him "That's enough!" At this point several other officers appeared and escorted me to medical.

2) After this I was placed in Behavior Modification, Isolation, while waiting for about 14 days for a disciplinary hearing.

3) Once at my disciplinary hearing, which was presided over by LT. Joe Johnson, I was not permitted to call any witnesses or to question my accuser. I was sent to Solitary Confinement for a period of 60 days. And the report is now permanently on my file to be used against me in Classification procedures.

4) While in Confinement Mike Tug, from Internal Affairs came to Interview me and Witnesses concerning the attack. A letter was written to him by Dale Gilmore And multiple Inmates that were present during the attack. This letter lead to the Investigation. Its final outcome is uncertain to me at this time, But I believe he found Officer Kenny Smith at fault of Excessive force and either suspended or terminated him.

5) Until my release Officer Kenny Smith continued to harass me and threaten me.

(continued).

Statement of claim

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5) Due to the Disciplinary Report, which was false, I am being housed in the (SHU) unit at James T Vaughn Correctional Center. I only receive 3 hours recreation per week, and 3 showers per week. I have been housed in the (SHU) since April 4, 2008 And am told I will remain here until January 2009. I have wrote Warden Phelps and the IBC to Appeal the decisions which was denied. End of statement.

6) LT Johnson Conducted Disciplinary Hearing At which He Did not Allow me to Call Witnesses which Violated my right to Due process.

7) Warden Phelps Has Disregarded all Correspondence Concerning my Housing in the (SHU)

8) I received bruises on my shoulders And ^A lump on my head As a result of the Beating. And I Also now Taken Medication for Anxiety problems since this incident.

1101 Padlock Rd.
Smyrna, DE 19977



Legal
Mail

Legal Mail

Clerk
U.S. District Court
Lockbox 18
844 North King Street
Wilmington, DE 19801

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